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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,638	07/08/2003	Doug McCain	11630/1882/US/2	1429
20686	7590	07/07/2005	EXAMINER	
DORSEY & WHITNEY, LLP INTELLECTUAL PROPERTY DEPARTMENT 370 SEVENTEENTH STREET SUITE 4700 DENVER, CO 80202-5647			PUROL, SARAH L	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/615,638

**Applicant(s)**

MCCAIN, DOUG

**Examiner**

Sarah Purol

**Art Unit**

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10.13-20 is/are pending in the application.
- 4a) Of the above claim(s) 11.12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10.13-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/12/04</u> . | 6) <input type="checkbox"/> Other: _____  |

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## DRAWINGS

The drawings are objected to in that Drawing figure 1 should be labeled as "PRIOR ART", otherwise, the drawings are acceptable.

## OFFICE ACTION

Claims 11 and 12 drawn to a wine rack in combination with wine have been withdrawn without prejudice. Claims 1-10 and 13-20 remain in the application and are directed to a rack for supporting wine bottles.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

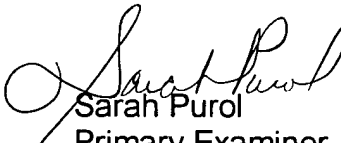
Claims 1-10 and 13-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Fridjhon 4,998,631. Fridjhon teaches a wine rack 1 having 1<sup>st</sup> and 2<sup>nd</sup> frame elements 10 and 1<sup>st</sup> and 2<sup>nd</sup> support members 11 having 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> recess portions for the purpose of supporting wine bottles 12. The 1<sup>st</sup> and 2<sup>nd</sup> frame elements are parallel to each other as are the 1<sup>st</sup> and 2<sup>nd</sup> supporting members. Although elements 10 are not attached to a wall, they could be.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Similar metallic wine racks are illustrated by Varkala 3,160,278; Audet D376299; Bertilsson D378888; Walker D30331; Shuck D232284; Emmart 2558611; Clute 2527796; Dardashti D386363; Goodman D383364.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah Purol whose telephone number is 571-272-6834. The examiner can normally be reached on Mon. Tue. Thurs. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). For general questions relating to this application please e-mail the examiner at Sarah.Purol@USPTO.GOV.

  
Sarah Purol  
Primary Examiner  
AU 3634